

FORM TO BE USED BY PRISONERS FILING A

FILED

PETITION FOR A WRIT OF HABEAS CORPUS

APR 13 2010

UNDER MONT. CODE ANN. § 46-22-101 et seq. Ed Smith

CLERK OF THE SUPREME COURT  
STATE OF MONTANANAME JOSEPH C. MORRISON, JR.PRISON NUMBER #A019862PLACE OF CONFINEMENT CASCADE COUNTY REGIONAL PRISONCRIMINAL CAUSE NUMBER DC-2004-14JOSEPH CURTIS MORRISON, JR.,, Petitioner  
(Full Name)

v.

WARDEN, Cpt. O'Fallon, (DOC) MIKE FERRITER,, Respondent  
(Name of Warden, Superintendent, or authorized person  
having custody of Petitioner).Instructions

1. To use this form, you must be imprisoned or otherwise restrained in Montana. Mont. Code Ann. § 46-22-101(1).
2. The petition must be neatly handwritten or typed. You must tell the truth and sign the form. If you make a false statement of a material fact you may be prosecuted for perjury.
3. The petition can be filed either in the district court in the county where you are incarcerated, or in the Montana Supreme Court. If you are filing in the district court, send the original to the clerk of the district court in the county where you are incarcerated. If you are filing in the Montana Supreme Court, send the original to the clerk of the Montana Supreme

Court. Also, mail a copy of the motion to each party listed on the Certificate of Service.

4. Habeas corpus cannot be used to attack the validity of your conviction or sentence. Also, it cannot be used to attack the validity of an order revoking a suspended or deferred sentence. Mont. Code Ann. § 46-22-101(2).
5. To get habeas corpus relief, you must show that your imprisonment or restraint is illegal. For example, you may allege that you will be held beyond your proper release date because of failure to properly award good time or credit for time served; that your sentence exceeds the statutory maximum term; that a decision of the parole board results in longer confinement; or that you are being illegally held without bail.
6. If you have any questions about these instructions or about the form, please seek assistance from the designated legal assistant in the institution. IT IS A VIOLATION OF POLICY FOR INMATES TO REQUEST LEGAL ASSISTANCE FROM OTHER INMATES.

#### PETITION FOR HABEAS CORPUS RELIEF

1. I was convicted of the following criminal offense(s): COUNT I: DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, FOURTH OR SUBSEQUENT OFFENSE, A FELONY AS SPECIFIED IN SECTION 61-8-401, MCA.
2. Judgment on these offenses was entered on (date) March 7, 2005.
3. I received the following sentence: DOC a term of (13) months, in addition to a consecutive, suspended commitment to Montana State Prison for a term of five (5) years.
4. Check one: ☒ I pled guilty to these offenses.  
☐ I pled not guilty to these offenses.
5. Check one: ☐ I appealed to the Montana Supreme Court.  
☒ I did not appeal to the Montana Supreme Court.

6. Other than a direct appeal from the judgment of conviction, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? ( ) Yes (xx ) No.

7. If your answer to question 6 was yes, give the following information:

Name of Court: \_\_\_\_\_

Nature of Proceeding: \_\_\_\_\_

Grounds Raised: \_\_\_\_\_

Result: \_\_\_\_\_

8. I assert that I am entitled to habeas corpus relief upon the following grounds:

GROUND ONE: CONSTITUTIONAL INFRIM/ILLEGAL SENTENCE

SUPPORTING FACTS: [EXHIBIT-A] 02-23-02, Tribal Jurisdiction Agency.: Flathead Tribal Police Dept., "CONSTITUTIONALLY INFIRM CONVICTION" Use of a TRIBAL DUI CONVICTION AND "JURISDICTION OF FEDERAL EXCLUSIVE JURISDICTION" Summons Number TO3A103533, "...State ex rel. IRVINE v. District Court of Fourth Judicial Dist. in and for Lake County, (Mont 1951).,; '...Citing... State v. PEPION ET AL., (Mont. 1951).,; '...citing...UNITED STATES V. KAGAMA, ALIAS PACTAH BILLY, AN INDIAN, AND ANOTHER. (U.S. 1886).,...."

GROUND TWO: DISTRICT COURT LACKED SUBJECT MATTER JURISDICTION  
DUI UNDER FEDERAL EXCLUSIVE JURISDICTION/PETITIONER  
HAS NOT CEDED INDIAN RIGHTS/OR FEDERAL RIGHTS

SUPPORTING FACTS: "...FISHER V. DISTRICT COURT, (Mont. 1976) 424 U.S. 382.,; '[1b] The right of the Northern Cheyenne Tribe to govern itself independently of state law has been consistently protected by federal statute. [MORRISON, ENROLLED MEMBER, [EXHIBIT -B], As early as 1877, Congress ratified an agreement between the Tribe and the United States providing that "Congress shall, by appropriate legislation, secure to [MORRISON/the Indians] an orderly governemnt, they shall be subject to the laws of the United States, and each individual shall be protected in his rights of property, person, and life.".,; '...citing...STATE V. Jesse Eagle Speaker, 2000 MT 152.,; '...citing...Arizona ex rel Merrill v. Turtle, (9th Cir. 1969).,...."

GROUND THREE: \_\_\_\_\_

SUPPORTING FACTS:

(Additional grounds and supporting facts can be stated separately and attached to this petition).

Wherefore, Petitioner prays that the Court grant relief to which he may be entitled in this proceeding.

VERIFICATION

STATE OF MONTANA )

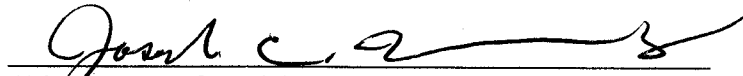
: ss.

County of CASCADE )

I, the petitioner above named, being duly sworn, states as follows:

I have read the foregoing petition for habeas corpus relief and know the contents thereof, and the same is true of my own knowledge, information and belief.

DATED this 11 day of April, 2010.

  
(Signature of Petitioner)

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Petition for a  
Writ of Habeas Corpus was sent by U.S. mail to the following:

Montana Attorney General  
P.O. Box 201401  
Helena, MT 59620

WARDEN, Cpt. O'Fallon  
CASCADE COUNTY REGIONAL PRISON  
3800 ULM N. Frontage Rd.  
Great Falls, MT 59404

Department of Corrections Legal Unit  
P.O. Box 201301  
Helena, MT 59620

County Attorney  
(address)

MICHAEL B. HAYWORTH  
ROSEBUD COUNTY ATTORNEY  
P.O. Box 69  
Forsyth, MT 59327

Done this day, 11th, of April, 2010.

*/s/ J. J. J. J.*